

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT R. PORTER,)
) Civil Action No. 04 - 464
Plaintiff,)
) District Judge Nora Barry
v.) Fischer
) Magistrate Judge Lisa Pupo
DAVE BLAKE, Corrections) Lenihan
Officer; BARRY WRIGHT,)
Corrections Officer; and)
MARK CAPOZZA, Unit)
Manager,)
Defendants.	

MEMORANDUM ORDER

Plaintiff's Complaint was received by the Clerk of Court on March 25, 2004 and was referred to United States Magistrate Judge Ila Jeanne Sensenich for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. On April 6, 2004, this case was transferred to United States Magistrate Judge Lisa Pupo Lenihan. The Plaintiff commenced this action and Civil Action No. 04-465 pursuant to the Civil Rights Act of 1871, 42 U.S.C. § 1983; these cases have been consolidated at Civil Action No. 04-464 (doc. no. 66) to include defendants Dave Blake, Corrections Officer; Barry Wright, Corrections Officer; and Mark Capozza, Unit Manager.

The Magistrate Judge's Report and Recommendation filed on March 21, 2008 (doc. no. 91) recommended that the Motion for Summary Judgment filed by Defendant Capozza (doc. no. 84) be granted on the basis that the Plaintiff failed to have exhausted

his available administrative remedies. Plaintiff filed Objections to the Report and Recommendation on April 7, 2008 (doc. no. 92). The Objections do not affect the disposition recommended in the Report and Recommendation.

After *de novo* review of the pleadings and documents in the case, together with the report and recommendation and the objections thereto, the following order is entered:

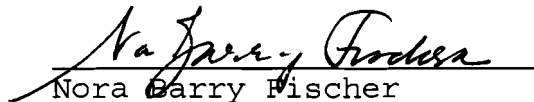
AND NOW, this 8th day of April, 2008;

IT IS HEREBY ORDERED that the Motion for Summary Judgment filed by Defendant Capozza (doc. no. 84) is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk of Court mark this action as **CLOSED**.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 91) of Magistrate Judge Lenihan, dated March 21, 2008, is adopted as the opinion of the court.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.


Nora Barry Fischer
United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

Robert R. Porter
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All counsel of record